IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10777 of 2025

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Santosh Kumar Son of Satya Narayan Sah Resident of Mohalla- 2nd Electric Tower Pandra Friends Colony, P.S.- Pandra O.P. Sukhdeo Nagar, Ranchi, District- Ranchi, Jharkhand.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Secretary cum Excise Commissioner, Bihar, Patna.
3. Excise Commissioner, Patna.
4. Assistant Commissioner Excise Prohibiton, Patna.
5. The Collector -Cum- District Magistrate, Patna.
6. Senior Superintendent of Police, Patna.
7. District Transport Officer, Patna.
8. Officer In Charge Excise Patna Police Station, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Prawesh Kumar, Advocate
For the Respondents State	:	Mrs. Dimpal Kumari, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 13-11-2025

Heard the learned counsel for the petitioner and learned AC to GP-11 for the State.

2. The petitioner in this case is aggrieved by and dissatisfied with the order dated 11.03.2025 passed by the Assistant Commissioner, Excise Prohibition in Confiscation Case No. 75 of 2025-26 arising out of Excise Patna P.S. Case No. 2782 of 2024. By the impugned order the Assistant

Commissioner Excise Prohibition has refused to release the vehicle in question, citing sub-rule (3) of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (hereinafter refer as 'the Rules'). An order has been passed for confiscation of the vehicle and its auction sale.

3. Learned counsel for the petitioner submits that the vehicle in question is an Innova Car bearing Registration No. JH14C-0188, Chassis No. MBJ11JV4007332-0860412 and Engine No. 2KDU027558 which has been seized for the alleged transportation of 128.625 liters of foreign liquor.

4. It is submitted that the Rule 12A has been inserted vide Amendment Rule 2022 to provide for release of the vehicles, conveyance, vessel, animal etc. which have been seized by any police or Excise Officer under the Act in terms of section-57B (1) of the Bihar Prohibition and Excise Act, power has been conferred upon the Collector or an officer authorized by him to pass an order for release of the said conveyance or vehicle upon payment of such penalty as may be ordered by the Collector or the Officer authorized by him. Sub-Rule (2) of Rule 12A provides the factors which are required to be considered while arriving at the quantum of penalty. According to this provision the penalty should not be less than 10% of the insured

value of the vehicle and more than Rs. 5 lakhs.

5. It is submitted that sub-rule (3) of Rule 12A, no doubt starts with a non-obstante clause but a reading of the same would make it crystal clear that before invoking sub-rule (3) of Rules 12A the Collector or the officer authorized by him has to record a satisfaction that releasing the vehicle or conveyance shall not be in the public interest. It is only after recording of such satisfaction that he shall proceed ahead with the confiscation of the said vehicle or conveyance and its subsequent auction/disposal.

6. Learned counsel submits that what will be a matter of public interest has not been explained under the Rules of 2021. The legislatures have while promulgating the Bihar Prohibition and Excise Rules, 2021 had initially not provided for release of the vehicles on payment of penalty but subsequently it was noticed that huge numbers of vehicle which were being seized in connection with the Prohibition Laws were lying outside the police station and over the period those vehicles were being damaged and were losings their road worthiness. It was founded that it was a loss to the Nation in form of an asset, it was later on decided to insert Rule 12A in the Rules of 2021. Rules 21 as amended vide Amendment Rules

2022 nowhere places any embargo on the release of the vehicle merely by taking note of the quantum of liquor which may be found. Rather sub-rule (2) of Rule 12A provides that while imposing the penalty apart from other factors due regard shall be given to the quantity of intoxicant recovered.

7. It is submitted that in this case there is no finding that the same vehicle was being used again and again for transportation of liquors or that the owner of the vehicle was involved in multiple cases under the liquor laws. Only by citing the quantum of the liquor found on the vehicle, invocation of powers under sub-rule (3) of Rules 12A would not be justified.

8. Learned AC to GP-11 for the State has submitted that the impugned order has been rightly passed by the Competent Authority. According to the respondents, Rules 12A as inserted vide Amendment Rules 2022 does not provide for mandatory release of the vehicle. It would be the discretion of the Authority to release the vehicle or not release it, keeping in view the quantum of liquor present in the vehicle.

9. We have considered the rival submissions at the bar and have gone through Rule 12A as inserted vide Amendment Rules 2022. For a ready reference we quote Rule 12A hereunder:

“[2][12A. Release of Vehicles, Conveyance etc. on Payment of Penalty.- (1) if any vehicles, conveyance, vessel, animal etc. has been seized by any police or excise officer under the Act, then in terms of Section 57B (1) of the Act, the Collector or an officer authorized by him upon receipt of an application in Form IV by the owner of the said conveyance or vehicle etc., may release the said conveyance or vehicle upon payment of such penalty as may be ordered by the Collector or the officer authorized by him.

Provided, where it is not possible to ascertain the owner of the vehicle or the owner is not coming to claim the vehicle, the Collector or the officer authorized by him, after waiting for 15 days from the date of seizure, shall proceed to confiscate and auction the vehicle as per the provisions of the Act.

[3][(2) The amount of penalty shall be as decided by the Collector or the Officer authorized by him. While imposing the penalty, he shall have due regard to the quantity of intoxicant recovered, involvement of the vehicle owner and the latest insurance value of the vehicle. In no case, the penalty should be less than 10% of the insured value of the vehicle and more than Rs. 5 lakhs. The insured value is the value of the vehicle as assessed by the insurance company. Where, the insured value is not available or the Collector or the Officer authorized

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2. Ins. By Amdt. Rules 2022, vide Notifn. No. 2458, dated 5.4.2022.
3. Subs. By Amdt. Rules, 2023, vide Notifn. No. 3671, dated 31.05.2023

by him has reason to believe that the vehicle is undervalued, he shall get the valuation done by the District Transport Officer.

In any case, the Collector shall not wait beyond 15 days from the date of seizure and if during this period, the accused/owner does not pay up the penalty, he shall proceed with the confiscation/auction.]

(3) Notwithstanding above, if on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the vehicle or conveyance shall not be in the public interest, he shall proceed ahead with the confiscation of the said vehicle or conveyance and its subsequent auction/disposal.

(4) Where the conveyance is such that its valuation/insurance is not possible, the Collector or the officer authorized by him shall impose such fine as he deems fit. While imposing such fine, the Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime and the quantum of intoxicant recovered.

(5) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, non-refundable.

(6) The owner of the vehicle/conveyance shall, after the release of the vehicle/conveyance, produce the vehicle/conveyance as and when required by the authorities."

10. On a bare reading of the scheme of Rule 12A, we find that the quantum of liquor found on the vehicle is one of the factors to be considered for the purpose of reaching to a conclusion as to the quantum of penalty which may be imposed in the matter of release of the vehicle. The legislatures in their wisdom have not provided as to what will be a commercial quantity. Under the Rules it is not the mandate of the legislatures that in a case where vehicle is found carrying a particular quantity of liquor, shall not be released on payment of penalty. No doubt sub-rule (3) of Rule 12A provides for an exception to the general rule of the release of vehicle but such power under sub-rule (3) of Rule 12A may be exercised only when the Competent Authority finds that it would not be fit to release the vehicle in public interest.

11. The words 'public interest' had fallen for consideration before the Hon'ble Supreme Court in the case of **Bihar Public Service Commission versus Saiyad Hussain Abbas Rizwi and Another** reported in **(2012) 13 SCC 61** Referring to its judgment in the case of **State of Bihar V. Kameshwar Singh** reported in **AIR 1952 SC 252,** the Hon'ble Supreme Court observed in para '22' as under:-

22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (*State of Bihar* v. *Kameshwar Singh)*[5]. It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [*Black's Law Dictionary* (8th Edn.)]."

12. Since Rule 12A(3) talks of 'public interest' but it has not been clearly explained in the Rules, we would take a cue on this from the judgment of the Hon'ble Supreme Court in the case of **Saiyad Hussain Abbas Rizwi (supra) and Kameshwar Singh** (supra). To us, it appears that the legislatures in their wisdom have inserted Rule 12A with a conscious decision to allow release of the vehicles on payment of penalty. One of the factors to be taken into consideration for the purpose of arriving at the quantum of penalty is the quantum of liquors loaded on the vehicle, therefore, only on the ground of quantity of liquor, the competent authority cannot reject an application for release of the vehicle.

5. AIR 1952 SC 252

13. In our considered opinion, it is to be decided by the competent authority in appropriate cases keeping in view several factors such as whether the vehicle has been caught in commission of offence repeatedly or that the owner of the vehicle could not be verified, there may be a case where the liquors are found spurious and the owner of the vehicle may be found involved in multiple cases of like nature under the liquor laws, any other consideration of like nature. In such cases, the competent authority may form an opinion taking note of exception of the 'public interest'.

14. If the competent authority starts rejecting an application for release of the vehicle even if it is found involved in the transportation of liquor for the first time, only by taking note of the quantum of liquor, it would act as a stumbling block in implementation of the scheme of Rule 12A that would, in fact, frustrate the mandate of law. The word 'public interest' as occurring under sub-rule (3) of Rule 12A cannot be given a rigid meaning, it has to be construed in the context of the scheme of the statute and it must take its colour from the statute in which it occurs.

15. The impugned order is, thus, set aside. The matter is remitted to the Competent Authority for a fresh consideration keeping in view the discussions and observations made

hereinabove. Such order shall be passed within one month from the date of receipt/production of a copy of this order.

16. The writ application stands allowed accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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AFR/NAFR	AFR
CAV DATE	NA
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